

On May 15, 1913, The Harbauer Co., Toledo, Ohio, claimant, having entered its appearance and the case coming on for hearing, judgment of condemnation was entered and it was ordered by the court that the product should be sold by the United States marshal after the obliteration of all marks, brands, and labels as to the contents of the barrels. It was provided, however, in the order of the court that the product should be released to said claimant upon payment of all costs of the proceedings and the execution of bond in the sum of \$600 in conformity with section 10 of the act.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *April 14, 1914.*

3092. Adulteration and misbranding of strawberry flavor. U. S. v. Maury-Cole Co. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 5199. I. S. No. 1247-e.)

On August 11, 1913, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said District an information against the Maury-Cole Co., a corporation, Memphis, Tenn., alleging the sale under a guarantee by said company for shipment in interstate commerce, in violation of the Food and Drugs Act, on or about August 1, 1912, of a quantity of strawberry flavor which was adulterated and misbranded. The information further alleged that the purchaser of the product afterward shipped the same in the original unbroken packages from the State of Tennessee into the State of Arkansas. The product was labeled (on cartons): "Choctaw Brand, Flavoring, Strawberry. (Guaranty Legend.) Serial No. 1126. Put up by Maury-Cole Co., Memphis, Tenn. Formula on bottle," and on the flaps of said carton, the words: "Choctaw Brand, Strawberry" (on bottles) "Choctaw Brand. Imitation Flavoring, Strawberry. Manufactured and guaranteed by Maury-Cole Co., Memphis, Tenn. Serial No. 1126. Harmless coloring."

Adulteration of the product was alleged in the information for the reason that a substance, to wit, an imitation of strawberry flavor, had been mixed and packed with said article of food in such manner as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that a substance, to wit, an imitation strawberry flavor, had been substituted in whole or in part for the genuine article, and for the further reason that it was colored in a manner whereby its inferiority was concealed. Misbranding was alleged in the libel for the reason that the statement "Flavoring Strawberry," borne on the carton, and the statement "Strawberry," borne on the bottle, were false and misleading because they conveyed the impression that the product was a genuine strawberry flavor, whereas, in truth and in fact, it was not a genuine strawberry flavor, but an imitation of strawberry flavor, the word "Imitation" which appeared inconspicuously on the label on the bottle being insufficient to correct the false impression conveyed by the statements "Flavoring of Strawberry" and "Strawberry."

On November 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$25, with costs of \$15.85.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *April 14, 1914.*

3093. Adulteration of tomato conserve. U. S. v. 50 Cases of Tomato Conserve. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 5201. S. No. 1798.)

During the month of May, 1913, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 50 cases of tomato conserve, remaining unsold in the original unbroken packages at San Francisco, Cal., alleging that the product had been shipped on February 5, 1913,

from Philadelphia, Pa., and transported from the State of Pennsylvania into the State of California, and charging adulteration in violation of the Food and Drugs Act. The product was labeled: "Tomato Conserve—Conserva di Tomate (design of ripe tomato) Rossa-Flag Brand—Packed according to Pure Food Law—Packed by Coroneos Brothers, Philadelphia, Pa."

Adulteration of the product was alleged in the libel for the reason that it was composed in whole and in part of filthy and decomposed vegetable substance.

On June 10, 1913, no claimant having appeared for the property, judgment of forfeiture and condemnation was entered and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., April 14, 1914.

3094. Adulteration and alleged misbranding of beer. U. S. v. Berghoff Brewing Association. Plea of guilty to second count of indictment. Fine, \$100 and costs. First count of indictment nolle prossed. (F. & D. No. 5205. I. S. No. 37906-e.)

At the November, 1913, term of the District Court of the United States for the District of Indiana, the grand jurors of the United States within and for said district, acting upon a report by the Secretary of Agriculture, returned an indictment against the Berghoff Brewing Association, a corporation, Fort Wayne, Ind., alleging shipment by said association, in violation of the Food and Drugs Act, on July 15, 1912, from the State of Indiana into the State of Louisiana, of a quantity of beer which was adulterated and alleged to have been misbranded. The product was labeled: (Principal label) "Berghoff Brewing Association Pure Hop and Malt Salvator Beer style Fort Wayne, Ind. Guaranteed by the Berghoff Brewing Assn. under the Food and Drugs Act, June 30, 1906." (Neck label) "This Beer is Brewed Double Strength out of the Choicest Malt and Hops Only. And intended for table use and Especially Recommended by Physicians as very Nourishing and Strengthening to the Sick and Convalescent."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

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| Alcohol (per cent by volume)..... | 5. 67 |
| Extract (per cent by weight)..... | 7. 42 |
| Extract original wort (per cent by weight)..... | 16. 50 |
| Degree fermentation..... | 55. 03 |
| Volatile acid as acetic (grams per 100 cc)..... | 0. 019 |
| Total acid as lactic (grams per 100 cc)..... | 0. 243 |
| Maltose (per cent)..... | 2. 26 |
| Dextrin (per cent)..... | 3. 50 |
| Ash (per cent)..... | 0. 216 |
| Proteid (per cent)..... | 0. 557 |
| P ₂ O ₅ (per cent)..... | 0. 086 |
| Undetermined (per cent)..... | 0. 88 |
| Polarization, undiluted, 200 mm tube (°V.)..... | +50. 8 |
| Color (degrees in $\frac{1}{4}$ -inch cell, Lovibond)..... | 19 |

Adulteration of the product was charged in the second count of the indictment for the reason that a product brewed from malt, hops, and other cereal products had been substituted in part for a product brewed from hops and malt only. Misbranding was charged in the first count of the indictment for the reason that the statements "Pure Hop and Malt Salvator Beer" and "This Beer is Brewed Double Strength out of the Choicest Malt and Hops Only," so printed and apparent on the labels attached to said bottles containing the product aforesaid, regarding the ingredients contained in said bottles aforesaid, were false and misleading in that said product was not